

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL WAYNE MATHISON,

Plaintiff,

v.

ZACHARY SHANNON, et al.,

Defendants.

Case No. 1:24-cv-00427-KES-SAB

ORDER DISCHARGING ORDER TO
SHOW CAUSE

ORDER GRANTING IN PART
PLAINTIFF'S MOTION FOR EXTENSION
OF TIME TO FILE AN AMENDED
COMPLAINT OR INTENT TO PROCEED
ON COGNIZABLE CLAIM

(ECF Nos. 14, 15)

THIRTY DAY DEADLINE

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983.

Plaintiff initiated this action on March 29, 2024. (ECF No. 1.) Because a non-attorney filed and signed the initial complaint on Plaintiff's behalf, the Court issued findings and recommendations recommending that the action be dismissed on April 19, 2024. (ECF No. 4.) On May 8, 2024—within the thirty day objection period—Plaintiff filed a first amended complaint. (ECF No. 7.) Accordingly, the Court vacated its findings and recommendations. (ECF No. 8.) On July 2, 2024, the Court screened the first amended complaint and found it violated Rule 8 of the Federal Rules of Civil Procedure. (ECF No. 11.) The Court ordered that an amended complaint be filed within thirty days.

On July 25, 2024, Plaintiff filed his second amended complaint. (ECF No. 12.) On

1 September 3, 2024, the Court screened Plaintiff's second amended complaint and found he stated
2 a cognizable excessive force claim under the Fourth Amendment against Defendant Zachary
3 Shannon. (ECF No. 13.) The Court granted Plaintiff thirty days to either file an amended
4 complaint or notify the Court of his intent to proceed only on the claim found to be cognizable.
5 Plaintiff failed to timely file either a notice of intent to proceed or an amended complaint.
6 Accordingly, on October 8, 2024, the Court ordered that Plaintiff show cause in writing why his
7 action should not be dismissed for failure to prosecute and failure to comply with a court order.

8 After the Court issued its order to show cause, Plaintiff's motion for extension of time to
9 file an amended complaint was docketed on October 8, 2024. (ECF No. 15.) The Court shall
10 therefore discharge its order to show cause.

11 In his instant motion, Plaintiff requests a ninety day extension of time to either file his
12 third amended complaint or file an intent to proceed on the identified cognizable claim. (ECF
13 No. 15.) Plaintiff contends his section 1983 claim is a complex matter and the deficiencies
14 identified by the Court are complex and extensive. (Id. at 2.) Plaintiff assures the Court that he
15 is doing all he can, but his access to the law library is limited. (Id. at 3.) Plaintiff therefore
16 requests until January 1, 2025 to file his amended complaint or intent to proceed on his
17 cognizable claim.

18 The Court does not find good cause exists to grant an additional ninety days to file a
19 fourth complaint or intent to proceed. The Court reiterates that "[a]t this stage, Rule 8 requires
20 Plaintiff to provide a short and plain statement of the claim, meaning he must provide the
21 Defendants notice of the factual basis for each legal claim Plaintiff wishes to pursue against each
22 Defendant....should Plaintiff choose to amend his complaint, he must present his claims in a
23 clear manner describing what each Defendant specifically did to Plaintiff that would form a
24 claim against that specific Defendant and clearly state the legal claim he is pursuing against each
25 Defendant." (ECF No. 13 at 15.)

26 The Court finds good cause to grant Plaintiff an additional thirty-days to file an amended
27 complaint that complies with Rule 8 or file a notice of intent to proceed on the identified
28 cognizable claim.

Accordingly, it is HEREBY ORDERED that:

1. The October 8, 2024 order to show cause (ECF No. 14) is DISCHARGED;
2. Plaintiff's motion for an extension of time (ECF No. 15) is GRANTED IN PART;
3. Plaintiff shall file a third amended complaint or intent to proceed on the identified cognizable claim within **thirty (30) days** of the date of service of this order; and
4. If Plaintiff fails to file an intent to proceed or amended complaint in compliance with this order, the Court will recommend to a district judge that this action be dismissed for failure to prosecute and failure to obey a Court order.

IT IS SO ORDERED.

Dated: **October 8, 2024**


UNITED STATES MAGISTRATE JUDGE